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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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RAMIRO CANALES,

Plaintiff,

*versus*

VIVIAN L. DAVIS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:16-CV-140

**MEMORANDUM OPINION AND ORDER**

Plaintiff, Ramiro Canales, an inmate confined at the Mark Stiles Unit, with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against several defendants.<sup>1</sup>

The court referred this matter to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends plaintiff's claims against defendant Jherick Campbell be dismissed for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b) (docket entry no. 99).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

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<sup>1</sup>

Plaintiff's claims against defendant Moore were dismissed on January 24, 2020 pursuant to Federal Rule of Civil Procedure 41(a). Plaintiff's claims against the remaining defendants were severed from this action on February 28, 2020 (docket entry no. 113).

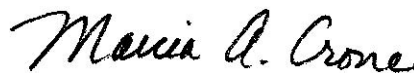
After careful consideration, the court finds plaintiff's objections are without merit. Ultimately, service of process upon a defendant is the responsibility of the plaintiff. The Magistrate Judge, through the assistance of the United States Marshal's Office, attempted service at the last known address provided by the Office of the Attorney General under seal and at the Mark Stiles Unit. Both attempts were returned unexecuted. On August 5, 2019, the Magistrate Judge entered an order requiring plaintiff to provide the Court with an address for service of process. Plaintiff responded on August 16, 2019 complaining he could not provide an address. The Report and Recommendation was issued on January 9, 2020 and, yet, plaintiff has still not provided an address for service of process and complains through his Objections that it is not his responsibility.

Plaintiff's Objections are overruled. The Court, however, Partially Adopts the Report and Recommendation to the extent it recommends dismissal as plaintiff has failed to serve defendant Campbell within 120 days of filing suit pursuant to Federal Rule of Civil Procedure 4(m).

### **ORDER**

Accordingly, the objections of the plaintiff are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **PARTIALLY ADOPTED**. A Final Judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

SIGNED at Beaumont, Texas, this 11th day of March, 2020.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE